

TOWN OF SPENCER
SEX OFFENDER RESIDENCY BYLAW

SECTION 1. DEFINITION OF TERMS:

- (a) “PARK” means public land designated for active or passive recreational or athletic use by the Town of Spencer, the Commonwealth of Massachusetts or other governmental subdivision, and located within the Town of Spencer. Such land includes but is not limited to Powder Mill Park, O’Gara Park, Luther Hill Park, Ralph Warren Park, Vietnam Memorial Park, Isaac Prouty Park, Bemis Memorial Park, Four Chimneys Recreation Area, the Spencer Fairgrounds, and Howe State Park (Spencer State Forest).
- (b) “SCHOOL” means any public or private educational facility that provides services to children in grades kindergarten – 12, or any one or more of such grades. Such facilities shall include but is not limited to Maple Street School, Lake Street School, Knox Trail Middle School, Wire Village Elementary School, and David Prouty High School.
- (c) “DAY CARE CENTER” means an establishment, whether public or private, which provides care for children and is registered with and licensed pursuant to the laws of the Commonwealth of Massachusetts by the Department of Early Education and Care.
- (d) “ELDERLY HOUSING FACILITY” means a building or buildings on the same lot containing four or more dwelling units restricted to occupancy by households having one or more members fifty-five years of age or older. Such building or buildings shall include but is not limited to Howe Village and Depot Village (Spencer Housing Authority), Asterwood Place, and Senior Living at Prouty (MHPI).
- (e) “SEX OFFENDER” means a person who resides, works or attends an institution of higher learning in the Commonwealth and who has been convicted of a sex offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense or a person released from incarceration or parole or probation supervision or custody with the Department of Youth Services for such a conviction or adjudication or a person who has been adjudicated a sexually dangerous person under M.G.L. c. 123A, §14, as in force at the time of adjudication, or a person released from civil commitment pursuant to Section 9 of said Chapter 123A, whichever last occurs, on or after August 1, 1981.

- (f) “PERMANENT RESIDENCE” means a place where a person lives, abides, lodges, or resides for five (5) or more consecutive days or fourteen (14) or more days in the aggregate during any calendar year.
- (g) “ESTABLISHING A RESIDENCE” means to set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one location, and may be mobile or transitory, or the establishment of such a dwelling, place, or abode by means of purchasing real property or entering into a lease or rental or occupancy agreement for real property.
- (h) “PRIVATELY OWNED PARK/TRUST” means any park or trust land that is designated for passive or active recreation use. Such land includes but shall not be limited to 4H Soccer Fields, Abbey Soccer Fields, Buck Hill Conservation Center, Burncoat Pond and Wildlife Sanctuary, and Sibley Warner Farm.
- (i) “CAMP” means any facility or operation falling within the definition of “Recreational Camp for Children” set forth in 105 CMR 430.020, including but not limited to any such which promotes or advertises itself as a camp, and without limiting the foregoing, shall also include real estate used by or for, or advertised as, all within the Town of Spencer, regardless of whether operated seasonally or year-round. Such facilities or operations includes but is not limited to Camp Marshall, the Mary House, Montachusett Girl Scouts, and Mohegan Council (Treasure Valley and Browning Pond Boat Ramp).
- (j) “PUBLIC LIBRARY” means the Richard Sugden Public Library, including any branch thereof.
- (k) “PLACE OF WORSHIP” means a structure used for religious worship or religious education purposes on land owned by, or held in trust for the use of any religious organization. Such structures includes but is not limited to Mary Queen of the Rosary, First Congregational Church, Hillside Baptist Church, Methodist Church, and Cornerstone Community Church.

SECTION 2. SEXUAL OFFENDER RESIDENCE PROHIBITION:

It is unlawful for any sex offender who is finally classified as a Level 2 or 3 Offender pursuant to the guidelines of the Massachusetts Sex Offender Registry Board, to establish a permanent residence within one thousand (1,000) feet of any school, day care center, park, camp, privately owned park/trust, elderly housing facility, public library, or place of worship. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence to the nearest outer property line of a school, day care center, park, camp, privately owned park/trust, elderly housing facility, public library, or place of worship. A map depicting the location of known schools, day care centers, parks, camps, privately owned parks/trusts, elderly housing facilities, public libraries, and places of worship shall be on file and available for viewing at the Spencer Police Department.

SECTION 3. NOTICE TO MOVE:

Any Level 2 or Level 3 sex offender finally classified as such by the Sex Offender Registry Board, so long as so classified, who establishes a permanent residence within one thousand (1,000) feet of any school, day care center, park, camp, privately owned park/trust, elderly housing facility, public library, or place of worship shall be in violation of this bylaw and shall, within thirty (30) days of receipt of written notice of the sex offender's noncompliance with this bylaw, move from said location to a new location, but said location may not be within one thousand (1,000) feet of any school, day care center, park, camp, privately owned park/trust, elderly housing facility, public library, or place of worship. It shall constitute a separate violation for each day beyond the thirty (30) days the sex offender continues to reside within one thousand (1,000) feet of any school, day care center, park, camp, privately owned park/trust, elderly housing facility, public library, or place of worship. Furthermore, it shall be a separate violation each day that a sex offender shall move from one location in the Town of Spencer to another that is within one thousand (1,000) feet of any school, day care center, park, camp, privately owned park/trust, elderly housing facility, public library, or place of worship.

SECTION 4. PENALTIES:

Violation of this bylaw, may be enforced through any lawful means in law or in equity by the Board of Selectmen, the Town Administrator, or their duly authorized agents, or any police officer of the Town of Spencer including, but not limited to, enforcement by non-criminal disposition pursuant to M.G.L. c. 40, §21D. Each day a violation exists shall constitute a separate violation. The penalties shall be as follows:

- (a) First Offense: Notification to offender that he/she has thirty (30) days to move.
- (b) Subsequent Offense: Non-criminal fine of \$300.00 and notification to the offender's landlord, parole officer and/or probation officer and the Commonwealth's Sex Offender Registry Board that the person has violated a municipal bylaw.

SECTION 5. EXCEPTIONS:

A person residing within One Thousand (1,000) feet of any school, day care center, park, camp, privately owned park/trust, elderly housing facility, public library, or place of worship does not commit a violation of this bylaw if any of the following apply:

- (a) The person established the permanent residence and reported and registered the residence, in accordance with the regulations of the Massachusetts Sex Offender Registry Board, prior to the effective date of this by-law.
- (b) The person was a minor when he/she committed the offense and was not convicted as an adult and who was not classified or is no longer classified as a Level 2 or 3 Sex Offender.

- (c) The person is a minor.
- (d) The school, day care center, park or elderly housing facility within one thousand (1,000) feet of the personal permanent residence was established after the person established the permanent residence and reported and registered the residence in accordance with the regulations of the Massachusetts Sex Offender Registry Board.
- (e) The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility located in the Town of Spencer within the aforementioned one thousand (1,000) foot area.
- (f) The person is admitted to and/or subject to an order of commitment at a public or private facility for the care and treatment of mentally ill persons pursuant to M.G.L. c. 123 located in the Town of Spencer within the aforementioned one thousand (1,000) foot area.
- (g) The person is a mentally ill person subject to guardianship pursuant to M.G.L. c. 201, §6 or a mentally retarded person subject to guardianship pursuant to M.G.L. c. 201 §6A, residing with his or her guardian or residing within a group residence that is professionally staffed and supervised 24 hours a day located in the Town of Spencer within the aforementioned one thousand (1,000) foot area.

SECTION 6. FORFEITURE OF EXCEPTIONS:

If, either after the effective date of this bylaw or after a new school, day care center, park, camp, privately owned park/trust, elderly housing facility, public library, or place of worship opens, a conviction is issued by a court against a sex offender falling within the provisions of Section 2 of this bylaw but otherwise enjoying an exception set forth in sub-paragraph (a), (b) or (d) of Section 5 above, that such sex offender has committed another sex offense, he/she will immediately forfeit that exception and be required to comply with this bylaw.